

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2006 OCT 17 AM 8:27

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF)

Jim McCotter, Owner)
Deer Haven Lodge)
Ten Sleep, WY)

Respondent)

Proceedings under section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. § 300g-3(g))

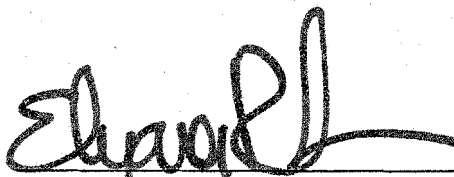
Docket No. SDWA-08-2006-0053

FINAL ORDER

Pursuant to 40 C.F.R. § 22.18, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby ORDERED to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

10. 16. 06

DATE



Elyana R. Sutin
Regional Judicial Officer

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Docket No. SDWA-08-2006-0053

CONSENT AGREEMENT

Complainant United States Environmental Protection Agency, Region 8 (EPA) and Jim McCotter (Respondent) by their undersigned representatives, hereby consent and agree as follows:

1. On August 22, 2006, EPA issued an Administrative Penalty Complaint (Complaint) alleging that the Respondent violated an Amended Administrative Order that EPA had previously issued under section 1414(g)(1) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g)(1). The Complaint proposed that the Respondent pay an administrative civil penalty for his violations, pursuant to section 1414(g)(3) of the Act, 42 U.S.C. § 300g-3(g)(3).

2. Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the specific factual allegations of the Complaint. Respondent does not admit to any violations of the Act or to any wrongdoing.

3. Respondent waives his right to a hearing before any tribunal to contest any issue of law or fact set forth in the Complaint or in this Consent Agreement.

4. This Consent Agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs. Any change in Respondent's ownership of the public water system at issue, including, but not limited to, any transfer of assets or real or personal property, shall not alter the Respondent's responsibilities under this agreement. This Consent Agreement contains all terms of the settlement agreed to by the parties.

5. The Respondent consents and agrees to pay a civil penalty in the amount of six hundred and fifty dollars (\$650) in the manner described below:

- a. Payment shall be in a single payment of \$650 made no later than thirty calendar days from the date of the Final Order.
- b. If the due date falls on a weekend or legal federal holiday, then the due date becomes the next business day. The date the payment is made is considered to be the date processed by Mellon Bank described below. Payments received by 11:00 AM EST are processed on the same day; those received after 11:00 AM EST are processed on the next business day.
- c. The payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case, for the amount, payable to "Treasurer, United States of America," as follows:

If sent by regular U.S. mail:

Mellon Bank
Lockbox 360859
Pittsburgh, PA 15251-6859

If sent by any overnight commercial carrier:

U.S. EPA, 360859
Mellon Client Service Center Rm 154-0670
500 Ross Street
Pittsburgh, PA 15251-6859

If sent by wire transfer:

Any wire transfer must be sent directly to the Federal Reserve Bank in New York City with the following information:

ABA = 021030004
TREAS NYC/CTR/
BNF=/AC-68011008

A copy of the check shall be sent simultaneously to:

Jeffrey McPherson
Enforcement Officer
Water Enforcement Program (8ENF-W)
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

and

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

- d. In the event the payment is not received by the specified due date, interest accrues from the date of the final order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received (i.e., on the 1st late day, 30 days of interest will have accrued).
- e. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31st day from the date of the final order, and for each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., by the 121st day from the date the final consent order is signed). Payments are first applied to outstanding handling charges, 6% penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.
- f. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

6. Nothing in this Consent Agreement shall relieve the Respondent of the duty to comply with the Act and its implementing regulations.

7. Any failure by the Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of this Consent Agreement and may result in referral of the matter to the Department of Justice for enforcement of this Consent Agreement and for such other relief as may be appropriate.

8. Nothing in this Consent Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of the Respondent's failure to perform pursuant to the terms of this Consent Agreement.

9. Each signatory below certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to bind the party for which he or she has signed to the terms and conditions of this Consent Agreement.

10. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.

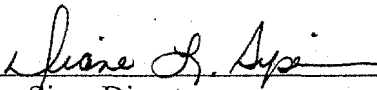
11. Each party shall bear its own costs and attorney fees in connection with this matter.

12. This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

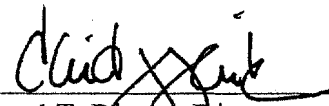
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,

Complainant.

Date: 16 October 2006

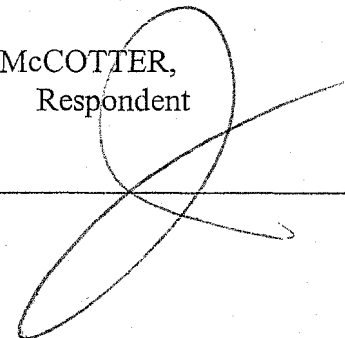
By: 
Diane Sipe, Director
Water Enforcement Program
Office of Enforcement,
Compliance and Environmental Justice
U.S. EPA Region 8
999 18th St., Suite 300
Denver, CO 80202

Date: 13 October 2006

By: 
Michael T. Risner, Director
David J. Janik, Supervisory Enforcement Attorney
Legal Enforcement Program
Office of Enforcement,
Compliance and Environmental Justice
U.S. EPA Region 8
999 18th St., Suite 300
Denver, CO 80202

JIM McCOTTER,
Respondent

Date: October 9, 2006



CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter **JIM MCCOTTER, OWNER, DEER HAVEN LODGE, DOCKET NO.: SDWA-08-2006-0053** was filed with the Regional Hearing Clerk on October 17, 2006.

Further, the undersigned certifies that a true and correct copy of the documents were delivered to Margaret J. "Peggy" Livingston, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on October 17, 2006 to:

Jim McCotter, Owner
Deer Haven Lodge
P. O. Box 86
Ten Sleep, WY 82442

Telefaxed to:

U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268
513-487-2063

October 17, 2006



Tina Artemis
Regional Hearing Clerk



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